

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Julie A. Su, Acting Secretary of Labor,

Case No. 24-cv-99 (JRT/TNL)

Plaintiff,

v.

ORDER

BCBSM, Inc., *d/b/a Blue Cross and Blue
Shield of Minnesota*,

Defendant.

This matter comes before the Court on the Motion for Leave to File an *Amicus Curiae* Brief by PatientRightsAdvocate.Org, Inc. (“PRA”), ECF No. 26. The Court took this motion under advisement on the papers, without a hearing. ECF No. 39.

PRA seeks leave to file an amicus brief in support of Plaintiff Acting Secretary of Labor Julie A. Su’s opposition, *see generally* ECF No. 24, to Defendant BCBSM, Inc.’s Motion to Dismiss, ECF No. 9. Plaintiff has consented to the filing of the amicus brief, “but Defendant opposes it.” ECF No. 26 at 1.

A request for permission to file an amicus brief “is a matter committed to the Court’s discretion.” *S.E.C. v. Carebourn Capital, L.P.*, No. 21-cv-2114 (KMM/JFD), 2023 WL 4947458, at *1 (D. Minn. Aug. 3, 2023); *see also, e.g., Murphy by Murphy v. Piper*, No. 16-cv-2623 (DWF/BRT), 2018 WL 2088302, at *11 (D. Minn. May 4, 2018) (“A determination on a request to participate as amicus curiae is discretionary, and the court may grant or refuse leave according as it deems the proffered information timely, useful, or otherwise.” (quotation omitted)). In exercising that discretion, courts consider

whether the proffered information is “timely, useful, or otherwise helpful to the Court.” *Larson v. Allina Health Sys.*, No. 17-cv-3835 (SRN/TNL), 2020 WL 583082, at *2 (D. Minn. Feb. 6, 2020); *see Carebourn Capital*, 2023 WL 4947458, at *1; *see also Murphy*, 2018 WL 2088302, at *11.

Some of PRA’s arguments are duplicative of Plaintiff’s opposition—for example, whether Defendant is a fiduciary. Other arguments concern types of contract clauses not at issue in the Complaint. Overall and on balance, the Court does not find the proffered information to be particularly useful or otherwise helpful to a determination of Defendant’s motion to dismiss. Accordingly, PRA’s motion is denied.¹

IT IS SO ORDERED.

Date: June 12, 2024

s/ Tony N. Leung
 Tony N. Leung
 United States Magistrate Judge
 District of Minnesota

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¹ Defendant requests that the Court strike PRA’s proposed amicus brief from the record. As the Court has reviewed the proposed amicus brief in reaching a determination on whether the brief should be permitted, the Court declines to do so.